HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.6864 OF 2007

Between:

K. Srinivas Reddy

…Petitioner

AND

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Social Welfare (TW Ser.II.I) Department,
A.P. Secretariat, Hyderabad and three others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri G. Tuhin Kumar

25th April, 2007

Per G.S.SINGHVI, CJ

Having failed to persuade the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') to nullify order dated 27-3-2004 issued by Chief Engineer, Tribal Welfare Engineering Department, Andhra Pradesh (respondent No.2) and G.O.Rt.No.162, Social Welfare (TW.SER.II.1) Department dated 3-4-2007 issued by the State Government in the matter of posting of respondent No.3 - Shri M.R.G. Naidu as Deputy Executive Engineer, Tribal Welfare and giving him full additional charge of the post of Executive Engineer, Tribal Welfare, Srisailam, the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India and prayed for quashing order dated 17-1-2007 passed by the Tribunal.

The only grievance made by the petitioner before the Tribunal was that even though he is senior to respondent No.3 in the cadre of Deputy Executive Engineers, the State Government and respondent No.2 unceremoniously stripped him of the full additional charge of the post of Executive Engineer, Tribal Welfare Department and posted respondent No.3 with full additional charge of that post.

The Tribunal took cognizance of the averments contained in the counter affidavit filed on behalf of the official respondents wherein it was averred that the petitioner had been attending duty only four to five times in a month and on that account, the work of the Engineering Division, which is required to deal with the tribals was jeopardised and there was none to attend the grievance of the tribals and held that the remedial action taken by the State and respondent No.2 does not suffer form any legal infirmity.

Shri Tuhin Kumar argued that the Tribunal has not considered the issue regarding violation of Article 371-D of the Constitution which envisages zonal bifurcation of the cadre of Deputy Executive

Engineers and this should be treated sufficient for nullifying the impugned order. He further argued that the official respondents committed a serious illegality by giving full additional charge of the post of Executive Engineer, Tribal Welfare Department to respondent No.3 ignoring the fact that he is facing departmental action and the Director General, Anti-Corruption Bureau had recommended his posting to a remote place other than Tribal Welfare Circle, Visakhapatnam.

We have considered the arguments of the learned counsel, but have not felt impressed. A careful scrutiny of the order under challenge shows that the counsel representing the petitioner did not argue before the Tribunal that the action taken by the State Government and respondent No.2 to bring some semblance of credibility to the administration was vitiated due to violation of Article 371-D of the Constitution of India. Rather, the only argument advanced on behalf of the petitioner was that the action of the official respondents to strip him of the full additional charge of the Executive Engineer is arbitrary. The Tribunal, as mentioned above, took note of the difficulties faced by the tribals on account of almost continued absence of the petitioner and held that the posting of respondent No.3 as Deputy Executive with full additional charge of the post of Executive Engineer, Tribal Welfare, Srisailam does not suffer from any legal infirmity.

In our opinion, the State Government and respondent No.2 were not only entitled but duty bound to take remedial measures and ensure that the problems of tribals are solved without delay. Undisputedly, the petitioner was attending office only on four to five days in a month and this had adversely affected the functioning of the department and the object of serving the tribals was being defeated. If the official respondents had not posted respondent No.3 and given him the full additional charge of the post of Executive Engineer, the entire administrative apparatus created by the State for serving the

tribals who constitute a very big chunk of have-nots of the society would have been put to peril and adversely affected. Therefore, the argument of arbitrary exercise of power was rightly rejected by the Tribunal and we do not see any reason much less a valid ground or justification to interfere with the impugned order.

In the result, the writ petition is dismissed.

While disposing of the writ petition in the manner indicated above, we deem it proper to observe that if the petitioner is still not attending the duties, then it will be imperative for the concerned authorities to take appropriate punitive action against him.

As a sequel to dismissal of the writ petition, WPMP No. 8762 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, C.J.

C.V. NAGARJUNA REDDY, J.

25th April, 2007
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